

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2004 SEP 28 PM 2:05

Applicant : Murakami et al.

Art Unit : 3620

Serial No. : 09/349,423

Examiner : Robert W. Morgan

Filed : July 7, 1999

Title : VEHICLE SHARING SYSTEM AND METHOD INVOLVING RESERVE  
VEHICLES WITH HIGHEST STATE OF CHANGE

**MAIL STOP 16**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**REQUEST FOR REFUND**

On or about December 19, 2003, Applicant paid the required fees for the filing of a Request for Continued Examination (RCE) by way of an enclosed check. However, the same fee had previously been paid on October 14, 2003, by Applicant's previous counsel. A copy of the attached Decision on Petition sets forth the details of this overpayment.

Accordingly, the payment made on or about December 19, 2003, for the filing of the RCE was not necessary, as all fees had previously been satisfied. Applicants respectfully request that the overpaid amount be refunded to Fish & Richardson's Deposit Account No. 06-1050 as a credit.

Respectfully submitted,

Date:

7/22/04

*[Signature]*  
Fish & Richardson  
P.C.  
12390 El Camino Real  
San Diego, CA 92130  
Telephone: (858) 678-5070  
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10439971.doc

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THIS CASE IS BEING MAILED BY FIRST CLASS MAIL.  
I hereby certify under 37 C.F.R. 1.51(a) that this correspondence is being  
mailed via the United States Postal Service as first class mail with  
postage paid on the date indicated below and is addressed to the  
Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

DATE: September 23, 2004

*[Signature]*



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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SAN DIEGO, CA 92130-2081

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AUG 31 2004

OFFICE OF PETITIONS

In re Application of  
Hiroshi Murakami, et al.  
Application No. 09/349,423  
Filed: July 7, 1999  
Attorney Docket No. 31050.7US01

ON PETITION

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This is a decision in response to a communication filed July 1, 2004, requesting, in effect, a decision on the December 22, 2003 petition to revive the above-identified application under 37 CFR 1.137(b).

A review of the record discloses that the application became abandoned for failure to respond to a final Office action mailed April 14, 2003. It is noted that a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) was filed on October 14, 2003, including an appropriate 3-month extension of time. However, the request for a CPA was automatically treated as a request for continued examination (CCE) of this application under 37 CFR 1.114, since a CPA of this application was not permitted under 37 CFR 1.43(d)(1). The constructive RCE was subsequently held improper by a notice mailed November 10, 2003. Applicant was also advised that the time period set in the final Office action continued to run. On March 24, 2004, a Notice of Abandonment was mailed.

The present communication argues that a petition to revive, RCE and reply were filed on December 22, 2003, followed by a petition to withdraw the Notice of Abandonment on April 1, 2004. While the above noted communications are present in the large File Wrapper (IFW), the communications were not forwarded to the appropriate deciding official for a decision thereon. The Office apologizes for the delay in responding. A decision on the petition filed December 22, 2003 follows.

The petition is GRANTED.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a revivable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be considered as the statement required by 37 CFR 1.137(b)(3). Petitioner must note that the Office's interpretation is not a correct interpretation of the statement contained in the instant petition.

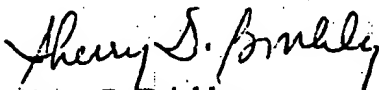
The application is revived for consideration of a determination under 37 CFR 1.114 (request for continued examination).

|                               |  |
|-------------------------------|--|
| *No Docketing Required*       |  |
| Reviewed By: Practice Systems |  |
| Initials: JCP                 |  |
| Reviewed By: Filing Secretary |  |
| Initials: JZJ                 |  |

It is noted that filing fees were paid for the RCE on October 14, 2003 and the RCE filed on December 22, 2003. Applicant is only required to pay one filing fee to process the RCE filed in response to the final Office action mailed April 14, 2003. Accordingly, applicant may request a refund of the overpayment by writing to Mail Stop 16, Director of the US Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

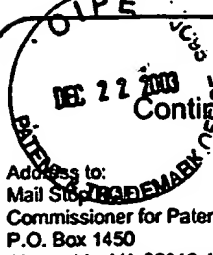
The application is being forwarded to Technology Center AU 3626, for further processing of the request for continued examination under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-9220. Inquiries relating to the processing of the RCE should be directed to the Technology Center.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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|   |                        |                  |
|---|------------------------|------------------|
|  <p>Request<br/>For<br/>Continued Examination (RCE)<br/>Transmittal</p> <p>Address to:<br/>Mail Stop<br/>Commissioner for Patents<br/>P.O. Box 1450<br/>Alexandria, VA 22313-1450</p> | Application Number     | 09/349,423       |
|   | Filing Date            | July 7, 1999     |
|   | First Named Inventor   | Murakami et al.  |
|   | Group Art Unit         | 3626             |
|   | Examiner Name          | Robert W. Morgan |
|   | Attorney Docket Number | 16821-005001     |

This is a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. §1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s)
- a. ☐ Previously submitted. If a final Office action is outstanding, any amendment filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_
2. **Miscellaneous**
- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. §1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. §1.17(l) required)
- b. ☐ Other \_\_\_\_\_
3. **Fee** The RCE fee under 37 C.F.R. §1.17(e) is required by 37 C.F.R. §1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 06-1050
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other Any deficiencies
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

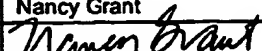
**RECEIVED**  
DEC 24 2003  
OFFICE OF PETITIONS  
**GROUP 3600**

## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED

|                   |   |                                   |          |
|-------------------|---|-----------------------------------|----------|
| Name (Print/Type) | Joseph Julian   | Registration No. (Attorney/Agent) | 54,780   |
| Signature         |  | Date                              | 12/19/03 |

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

|                   |   |      |                   |
|-------------------|---|------|-------------------|
| Name (Print/Type) | Nancy Grant   | Date | December 19, 2003 |
| Signature         |  |      |                   |

12/23/2003 SLUANG1 00000033 061050 09349423

02 FC:1801 770.00 DA

Adjustment date: 11/03/2004 SDIRETA1  
12/23/2003 SLUANG1 00000033 061050 09349423  
02 FC:1801 770.00 CR